

HOUSE BILL REPORT

E2SHB 1605

As Passed House:
February 16, 2016

Title: An act relating to benefit charges of fire protection districts and regional fire protection service authorities.

Brief Description: Concerning benefit charges of fire protection districts and regional fire protection service authorities.

Sponsors: House Committee on Finance (originally sponsored by Representatives Peterson, Van De Wege, Griffey, Riccelli and Fitzgibbon).

Brief History:

Committee Activity:

Local Government: 2/4/15, 2/17/15 [DP], 1/19/16, 1/21/16 [DPS];

Finance: 2/23/15, 2/25/15 [DP], 1/29/16, 2/8/16 [DP2S(w/o sub LG)].

Floor Activity:

Passed House: 3/10/15, 56-42.

Floor Activity:

Passed House: 2/16/16, 61-36.

Brief Summary of Engrossed Second Substitute Bill

- Allows regional fire protection service authorities (RFAs) to continue imposing benefit charges for six consecutive years with a ballot measure approved by a majority of the voters voting in the election.
- Establishes financial protections for RFAs by extending future levy capacity protection provisions to RFAs that impose benefit charges.
- Exempts certain properties of governmental and nonprofit organizations from benefit charges.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Appleton, Chair; Gregerson, Vice Chair; Griffey, Assistant Ranking Minority Member; Fitzgibbon, McBride and Peterson.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 2 members: Representatives Taylor, Ranking Minority Member; McCaslin.

Minority Report: Without recommendation. Signed by 1 member: Representative Pike.

Staff: Cassie Jones (786-7303).

HOUSE COMMITTEE ON FINANCE

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Local Government. Signed by 9 members: Representatives Lytton, Chair; Robinson, Vice Chair; Frame, Pollet, Reykdal, Ryu, Springer, Stokesbary and Wylie.

Minority Report: Without recommendation. Signed by 4 members: Representatives Nealey, Ranking Minority Member; Condotta, Manweller and Wilcox.

Minority Report: Do not pass. Signed by 2 members: Representatives Orcutt, Assistant Ranking Minority Member; Vick.

Staff: Jeffrey Mitchell (786-7139).

Background:

Regional Fire Protection Service Authorities.

Regional fire protection service authorities (RFAs) are taxing districts charged with providing regional fire protection and emergency services within their jurisdictional boundaries. A RFA is formed when elected officials from two or more adjacent fire protection jurisdictions develop a plan for the creation, financing, operation, and governance of a RFA that is subsequently approved by voters.

Fire Protection Districts.

Fire protection districts (fire districts) are created to provide fire and emergency services to protect life and property in locations outside of cities and towns. A fire district may be established through a process involving a petition by the residents of a proposed district, a public hearing, and voter approval. Fire districts are governed by a board of three or five elected commissioners.

Benefit Charges.

Regional fire protection service authorities and fire districts may impose benefit charges. Imposed benefit charges are on personal property and improvements to real property within the RFA or fire district. The benefit charges must be paid by the property owners and must be reasonably proportioned to the measurable benefits to property resulting from the services afforded by the RFA or fire district.

The governing body of a RFA or fire district must hold a public hearing on its proposal to impose benefit charges prior to the election at which the proposition to impose the benefit charges is to be decided. Benefit charges may be imposed for a maximum term of six years;

however, voters may reauthorize the benefit charges for additional terms. A RFA or fire district that imposes a benefit charge is barred from imposing 50 cents of the total property tax levy of \$1.50 per \$1,000 of assessed valuation that it may otherwise impose.

For a RFA, the initial imposition or reauthorization of benefit charges requires approval by 60 percent of the voters voting on the ballot measure. For a fire district, the initial imposition of benefit charges requires approval by 60 percent of the voters voting on the ballot measure, but the continued imposition of benefit charges need only be approved by a simple majority of the voters voting on the measure.

Property Tax Limits and Banked Levy Capacity.

The state Constitution limits regular property tax levies to a maximum of 1 percent of the property's value (\$10 per \$1,000 of assessed value). In addition to the 1 percent levy limit, there is a 1 percent cap on the revenues a taxing district can receive each year based on the highest amount levied in the past three years. An individual taxing district with a regular property tax levy must adhere to both the statutory rate limits and the revenue limit.

A regular property tax district that chooses to levy an amount that is less than the highest lawful amount allowed may retain the unused levy capacity for future use. This is known as "banked levy capacity." As the result of banked levy capacity, the amount of tax that a district levies in any one year may be more or less than the amount that would otherwise be expected to be imposed by a district. The levy growth depends on whether the district is banking capacity for future use, tapping previously banked capacity, or neither. The purpose of authorizing a taxing district to maintain banked levy capacity is to remove the incentive for a taxing district to maintain its tax levy at the maximum level permitted under state law. Allowing the use of banked levy capacity also protects the future levy capacity of a taxing district that reduces its tax levy below the maximum level that it could otherwise impose under state law.

Summary of Engrossed Second Substitute Bill:

Continued Imposition of Benefit Charges by Regional Fire Protection Service Authorities.

Provisions requiring the continuation of a benefit charge by a RFA to be approved by 60 percent of the voters voting on the ballot measure are deleted and replaced with an authorization allowing the continued imposition of a benefit charge with approval of a majority of voters voting in the election.

Banked Levy Capacity.

Unused levy capacity of a RFA that is "banked" may include the amount that would have been imposed but was not due to imposition of a benefit charge.

Public Hearing Provision.

The public hearing required before an election authorizing the imposition of benefit charges by a RFA may be conducted by a RFA planning committee, rather than only by the governing board of a RFA, if the benefit charge is proposed as part of the initial formation of the RFA.

Exemptions from Benefit Charges.

The following properties are exempt from benefit charge of an RFA or fire district:

- property of housing authorities;
- property of nonprofit entities providing rental housing for very low-income households or providing space for the placement of a mobile home for a very low-income household;
- property of nonprofit homes for the aging;
- property of nonprofit organizations, corporations, or associations providing housing for eligible persons with developmental disabilities;
- property of nonprofit organizations providing emergency or transitional housing for low-income homeless persons or victims of domestic violence who are homeless for personal safety reasons;
- property of the Washington State Housing Finance Commission; and
- property of nonprofit corporations operating sheltered workshops for persons with disabilities.

Rules are established for the termination of benefit charges of RFAs and fire districts that were imposed on exempt property prior June 15, 2016:

- Benefit charges due to expire prior to June 18, 2018, may continue to be assessed and collected from exempt properties. If, after the benefit charge expires during this period, voters of the authority reapprove the benefit charge, the authority may assess and collect the charge from exempt properties for a period of no more than two years after it is reapproved. In the first year after reapproval, the authority may collect the full amount of the benefit charge from exempt properties. In the second year after reapproval, the authority may collect no more than 50 percent of the benefit charge from exempt properties. After two years, the authority may no longer assess and collect the benefit charge from exempt properties.
- For a benefit charge that expires after June 15, 2018, the authority may not assess and collect the benefit charge from any exempt property after June 25, 2016.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony (Local Government):

(In support) There were concerns last year from affordable housing regarding benefit charges. Fire service and affordable housing often help the same at risk groups, so it makes sense to exempt affordable housing properties from the benefit charges. Fire service professionals and affordable housing advocates have come to an equitable solution that will help people and save public money. Regarding the fire benefit charges, this bill is trying to incentivize the creation of regional fire authorities which create better outcomes for fire services. It is more effective and efficient to regionalize fire service.

Simple majority to renew a benefit charge is something that fire districts have but not RFAs, and this is a disincentive to the formation of RFAs. The fire benefit charge originated as a user fee and it can be targeted and individualized in the district. The nature of the properties

in the district determine the nature of the benefit charge. As a matter of local control, exemptions to benefit charges should vary by district and not be imposed across the board.

This bill is addressing public safety. Fire districts struggle to take in enough revenue due to the property tax cap and increasing costs. Fire services respond every day to public housing units. Fire districts do need to recoup some of these costs so fire services can be provided throughout the community.

If people are homeless, they become a larger burden on society and social services. It makes sense to provide exemptions on the affordable housing properties. Regarding the permanency of the benefit charge, it is modeled after a levy in current law. Essential public services should be allowed to be renewed by a simple majority. The permanent levy with 60 percent voter approval makes sense.

(Opposed) A 10-year levy on a simple majority vote does not provide enough public oversight. A permanent levy with a low voter turnout threshold does not provide enough public oversight. Regarding affordable housing, the bill has an exemption for nonprofits. For-profit entities are just as important to solving homelessness. The bill shifts the costs from the nonprofits to the private sector. Levy capacity protection is troubling because RFAs and districts should only be able to bank levy capacity if there is no benefit charge imposed and this should be specified in the bill.

Staff Summary of Public Testimony (Finance):

(In support) This bill is about equity between regional fire authorities and fire districts. Regionalization improves efficiencies in government and this bill encourages that. Currently, affordable housing is exempt from property tax; this exemption was worked into the benefit charge statute as well. It does not make financial sense to put an additional burden on affordable housing. This bill provides a critical exemption for affordable housing. The bill provides clarity for affordable housing exemptions that apply in some cases but not others. It provides greater consistency between homes owned and rented by low-income seniors. The bill removes any doubt about whether affordable housing can be exempted from benefit charges. It acknowledges the complimentary nature of fire protection services and affordable housing. It resolves current disputes about how fire benefit charges are assessed on affordable housing. The cost savings provided by the affordable housing exemptions are critical. The banked capacity provision is something that applies to all other governmental units except regional fire authorities. This bill promotes efficiency through regionalization. Under current law, there is a disincentive for fire districts to join a regional fire authority and achieve economies of scale.

(Opposed) The Kent regional fire protection authority has cost taxpayers \$87 million more than if the City of Kent had provided the fire protection services. The last thing that a regional fire authority should have access to is banked capacity. This bill expands loopholes. My regional fire charge is 35 percent higher than what I use to pay in property taxes when we were a fire district. The fire benefit charge allows an authority to have an unrestricted source of revenue. My fire protection taxes are almost as much as my state taxes and more than my city taxes. There is not a commensurate benefit for the additional cost. Nothing should be done to make it easier for fire districts to extract money from the citizens.

(Other) We love the simple majority vote provision for benefit charge approval and favor the affordable housing exemptions. We would like an amendment to have the exemptions apply when the benefit charge is renewed.

Persons Testifying (Local Government): (In support) Representative Peterson, prime sponsor; Dylan Doty, Washington State Association of Fire Chiefs; Matthew Cowan, Shoreline Fire Department; Ed Widdis, Snohomish County Fire District 1; and Geoff Simpson, Washington State Council of Firefighters.

(Opposed) Bill Hinkle and Eric Bernard, Rental Housing Association.

Persons Testifying (Finance): (In support) Megan Hyla, Association of Washington Housing Authorities; LeighBeth Merrick, LeadingAge Washington; Geoff Simpson, Washington State Council of Fire Fighters; and Ed Widdis, Snohomish County Fire District.

(Opposed) Eric Bernard and LeRoy Stevenson.

(Other) Wayne Senter, Washington Fire Chiefs.

Persons Signed In To Testify But Not Testifying (Local Government): None.

Persons Signed In To Testify But Not Testifying (Finance): None.